IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:12 CV 332

TODD S. PAUMEN,)	
Plaintiff)	00000
v)	<u>ORDER</u>
HARTFORD LIFE AND ACCIDENT)	
INSURANCE COMPANY and SONIC AUTOMOTIVE, INC.,)	
Defendants)	

THIS MATTER has come before the undersigned pursuant to Defendants' Motion to Strike Plaintiff's Request for Jury Trial (#12) filed by defendants. In the motion, defendants contend that due to the plaintiff's Complaint asserting a claim, pursuant to ERISA, plaintiff is not entitled to a jury trial. The plaintiff filed a response entitled "Plaintiff's Notice Regarding Defendants' Motion to Strike Jury Demand" (#19) in which plaintiff's counsel states: "Counsel for Plaintiff decided not to file a response to or contest Defendants' Motion to Strike Plaintiff's Demand for Jury Trial". It appears to the undersigned from the defendants' motion that the plaintiff is not entitled to a jury trial, Berry v. Ciba-Geigy Corp. 761 F.2d 1003, 1007 (4th Cir. 1985), and defendants' motion will be allowed.

ORDER

IT IS, THEREFORE, ORDERED that the Defendants' Motion to Strike

Plaintiff's Request for Jury Trial (#12) is **ALLOWED** and the trial in this matter shall take place before the District Court without a jury.

Signed: September 10, 2012

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Dennis L. Howell

United States Magistrate Judge